

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

JOAO M. DACOSTA, THE ESTATE OF	:	
EMILY DACOSTA, on behalf of	:	
Themselves and all other so similarly	:	
situated,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	C.A. No.:
	:	
NATIONSTAR MORTGAGE, LLC, and	:	
FEDERAL NATIONAL MORTGAGE	:	
ASSOCIATION,	:	
	:	
Defendants.	:	

NOTICE OF REMOVAL

Defendants Nationstar Mortgage, LLC (“Nationstar”) and Federal National Mortgage Association (“Fannie Mae” and, along with Nationstar, “Defendants”), through their attorneys, Locke Lord LLP, for the purpose of removing this case to the United States District Court for the District of Rhode Island, respectfully state:

1. State Court Action. Plaintiffs Joao M. DaCosta and the Estate of Emily DaCosta (collectively, “Lead Plaintiffs”) filed a putative *Class Action Complaint* (“*Complaint*”) against Defendants on December 2, 2015 in the Superior Court of the State of Rhode Island, Providence County, with the docket number C.A. No. PC2015-5242. Lead Plaintiffs subsequently filed an *Amended Class Action Complaint* on December 15, 2015 (“*Amended Complaint*”).

2. Federal Jurisdiction. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because (i) there is complete diversity between the Lead Plaintiffs and the Defendants; and (ii) the amount in controversy with respect to the Lead Plaintiffs exceeds \$75,000. Furthermore, this matter involves one-hundred (100) or more putative class members,

with at least one of the Defendants diverse from at least one of the putative class members, and the aggregate amount in controversy with respect to the 100 purported class members referenced in ¶ 2 of the *Amended Complaint* exceeds \$5,000,000. Specifically:

- a. Lead Plaintiffs are citizens of Rhode Island, *Am. Compl.*, ¶¶ 15-16.
- b. Defendant Nationstar is a limited liability company with a headquarters located in Texas. Nationstar is directly owned by two entities: (1) Nationstar Sub1 LLC (“Sub1”) (99%) and (2) Nationstar Sub2 LLC (“Sub2”) (1%). Both Sub1 and Sub2 are Delaware limited liability companies, and both have a principal place of business in Texas. Sub1 and Sub2 are, in turn, both 100% owned by NSM Mortgage Holdings, Inc. (“NSM Holdings”), a Delaware corporation with a principal place of business in Texas. Nationstar is therefore a citizen of Texas and Delaware for purposes of diversity jurisdiction. 28 *U.S.C.* § 1441 (c) (1).
- c. Fannie Mae is a federally-chartered corporation that maintains its principal place of business in Washington, D.C. and is deemed to be citizen of Washington, D.C. for purposes of diversity jurisdiction. 12 *U.S.C.* 1717(a)(2)(B).
- d. Lead Plaintiffs allege that a mortgage on certain real property was granted by Lead Plaintiffs as security for a loan with a principal amount of \$310,100.00. *Am. Compl.*, ¶ 21. Lead Plaintiffs further allege that their mortgage was foreclosed upon and their property sold at a March 2015 foreclosure sale for \$361,493.64. *Am. Compl.*, ¶ 26. They seek to void that foreclosure and, consequently, the value of the real property in issue

solely as regards Lead Plaintiffs exceeds the sum of \$75,000. *See generally, e.g., Bedard v. Mortg. Elec. Reg. Sys.*, No. 11-cv-117, 2011 DNH 077, 2011 WL 1792738, at *3 (D.N.H. May 11, 2011) (“the fair market value of the property is an acceptable measure of the amount in controversy for purposes of diversity jurisdiction”). Lead Plaintiffs make substantially similar allegations on behalf of the other purported class members. Accordingly, it is apparent on the face of the Amended Complaint that the amount in controversy far exceeds \$75,000. 28 U.S.C. § 1332 (a).

- e. Jurisdiction is also proper under the Class Action Fairness Act of 2005 (“CAFA”). Lead Plaintiffs have already identified approximately one-hundred (100) purported class members. *Am. Compl.*, ¶ 2. They further allege that the class will eventually “encompass[] hundreds of individuals.” *Am. Compl.*, ¶ 44. Thus, the aggregate number of potential class members in Lead Plaintiffs’ class exceeds 100 and, therefore, the \$5,000,000 aggregate amount-in-controversy applies. *See* 28 U.S.C. §1332(d), as amended by CAFA. Because the aggregate amount-in-controversy with respect to each and every putative class member’s claim exceeds \$5,000,000¹, jurisdiction is properly conferred by CAFA. *Id.*

¹ A review of the 80 exhibits attached to the original *Complaint*, which appear to contain copies of foreclosure deeds for each of the original 80 purported class members, reveals that the foreclosures, in the aggregate, resulted in sale proceeds or credit bids in a total amount exceeding \$18,600,000, far in excess of the \$5,000,000 threshold.

3. **Proper Venue.** This court is the proper district court for removal because the Superior Court of Rhode Island for Providence County is located within the United States District Court for the District of Rhode Island.

4. **Timeliness of Removal Petition.** Nationstar received service of process in this matter no earlier than December 2, 2015.² Removal of this action is therefore timely under 28 U.S.C. § 1446(b).

5. **Original Pleadings Attached.** Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders in this case are attached as Exhibit A. Certified copies of the entries in the Superior Court docket will be filed in connection with Defendants' Local Rule 81(b) Statement.

6. **Relief Requested.** Defendants respectfully request that the United States District Court for the District of Rhode Island accept this Notice of Removal, and that it assume jurisdiction of this cause of action and issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof.

² Neither of the Defendants waive their right to contest at a later time whether service was made properly.

Respectfully submitted,

NATIONSTAR MORTGAGE, LLC
AND FEDERAL NATIONAL
MORTGAGE ASSOCIATION,

By their Attorneys,

/s/ Joseph A. Farside, Jr.

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DATED: December 22, 2015

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 22nd day of December 2015, this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants.

/s/ Joseph A. Farside, Jr.